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United States District Court District of Massachusetts

U.S. DISTRICT COURT
DISTRICT OF MASS.

United States of America

v.

Fabrice Teixeira
Defendant,

Case No. 120-cr-10198-FDS

EMERGENCY WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

Here, the petitioner moves to address several issue regarding imprisonment pursuant to 28 U.S.C.S. § 2241, following petitioner being convicted of a crime. (1) Pursuant to 18 U.S.C. § 3621 Petitioner was not and should have been committed to the custody of the Bureau of Prisons until the expiration of the term imposed, or until earlier released for satisfactory behavior pursuant to the provisions of section 3624. See 18 U.S.C. § 3621(a).

(2) Petitioner still remains in custody of the United States Marshal Services, which he should actually be in custody of the Bureau of Prisons (B.O.P.) which is depriving the petitioner from receiving good time towards his sentence and having the opportunity to be housed in pre-release custody. See 18 U.S.C. § 3624. (See Exhibit A)

(3) The petitioner respectfully request that his writ be noticed and acknowledged with urgency and action be taken upon such writ with urgency due to the fact he is in the custody of the USMS and not the BOP which is depriving him from being released to a halfway house or home confinement.

Under 18 U.S.C. § 3621(b), the BOP is vested with authority to determine the location of an inmate's imprisonment. That statute not only grants the BOP placement authority, it lists factors for consideration in making placement and transfer determinations:

(b) Place of imprisonment. The Bureau of Prisons shall designate the place of the prisoner's imprisonment. The Bureau may designate any available penal or correctional facility that meets minimum standards of health and habitability established by the Bureau, whether maintained by the Federal Government or otherwise and whether within or without the judicial district in which the person was convicted, that the Bureau determines to be appropriate and suitable, considering-

- (1) the resources of the facility contemplated;
- (2) the nature and circumstances of the offense;

- (3) The history and characteristics of the prisoner;
- (4) Any statement by the court that imposed the sentence-
- (A) Concerning the purposes for which the sentence to imprisonment was determined to be warranted; or
- (B) Recommending a type of penal or correctional facility as appropriate; and
- (5) Any pertinent policy statement issued by the Sentencing Commission pursuant to section 994(a)(2) of title 28.

In designating the place of imprisonment or making transfers under this subsection, there shall be no favoritism given to prisoners of high social or economic status. The Bureau may at any time, having regard for the same matters, direct the transfer of a prisoner from one penal or correctional facility to another. 18 U.S.C. § 3621 (emphasis added).

A more specific provision, 18 U.S.C. § 3624(c), describes the BOP's obligation to prepare prisoners for community re-entry by, inter alia, placing them in community confinement:

(c) Pre-release custody. The Bureau of Prisons shall, to the extent practicable, assure that a prisoner serving a term of imprisonment spends a reasonable part, not to exceed six months, of the last 10 per centum of the term to be served under conditions that will afford the prisoner a reasonable opportunity to adjust to and prepare for the prisoner's re-entry into the community. The authority provided by this subsection may be used to place a prisoner in home confinement. 18 U.S.C. § 3624(c).

The petitioner moves to be released from custody from the U.S. Marshalls Services immediately to the B.O.P. to be eligible for pre-release or better yet home confinement. E.g., *Woodall v. Fed. Bureau of Prisons*, 432 F.3d 235 (3d Cir. 2005).

CONCLUSION

Petitioner moves to be transferred to the B.O.P. as soon as possible to a pre-release program or home confinement.

Respectfully Submitted

Fabrice Teixeira (Pro'se)

Fabrice Teixeira

Date: 07/19/21